

ASSEMBLY BILL

No. 1959

Introduced by Assembly Member Rodriguez

February 12, 2016

An act to amend Section 245 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1959, as introduced, Rodriguez. Assault on an emergency medical technician.

Existing law makes it a crime and specifies terms of imprisonment for assault on a peace officer or firefighter when the person knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties. Existing law specifies various terms of imprisonment depending on whether the assault was committed with a deadly weapon that is not a firearm, a firearm, or one of a specified type of firearm, including machineguns and assault weapons.

This bill would make these provisions applicable to an assault on an emergency medical technician when the person knows or reasonably should know that the person is an emergency medical technician engaged in the performance of his or her duties. By increasing the penalty for a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 245 of the Penal Code is amended to read:

245. (a) (1) ~~Any~~A person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) ~~Any~~A person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) ~~Any~~A person who commits an assault upon the person of another with a machinegun, as defined in Section 16880, or an assault weapon, as defined in Section 30510 or 30515, or a .50 BMG rifle, as defined in Section 30530, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(4) ~~Any~~A person who commits an assault upon the person of another by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(b) ~~Any~~A person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) ~~Any~~A person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a ~~peace officer or officer, firefighter, or emergency medical technician~~, and who knows or reasonably should know that the victim is a ~~peace officer or firefighter officer, firefighter, or emergency medical technician~~ engaged in the performance of his or her duties, when the ~~peace officer or firefighter officer, firefighter, or emergency medical technician~~ is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) (1) ~~Any~~ A person who commits an assault with a firearm upon the person of a ~~peace officer or~~ *officer*, firefighter, or *emergency medical technician*, and who knows or reasonably should know that the victim is a ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* engaged in the performance of his or her duties, when the ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) ~~Any~~ A person who commits an assault upon the person of a ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* with a semiautomatic firearm and who knows or reasonably should know that the victim is a ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* engaged in the performance of his or her duties, when the ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) ~~Any~~ A person who commits an assault with a machinegun, as defined in Section 16880, or an assault weapon, as defined in Section 30510 or 30515, or a .50 BMG rifle, as defined in Section 30530, upon the person of a ~~peace officer or~~ *officer*, firefighter, or *emergency medical technician*, and who knows or reasonably should know that the victim is a ~~peace officer or firefighter~~ *officer*, firefighter, or *emergency medical technician* engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Sections 18000 and 18005.

(f) As used in this section, “peace officer” refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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